

### **Remarks/Arguments**

In the Office Action dated 3/23/2004, claims 1, 2, 4-10 and 12-29 are rejected. Claims 4 and 24-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1-2, 4-9, 12 and 14-21 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 2,953,865 (Heuser). Claims 1-2, 4-10, 12-23 and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heuser. Claims 1-29 are cancelled. New claims 30-35 are presented. No new matter has been added. It is believed that new claims 30-35 comply with 35 U.S.C. 112, second paragraph.

Although the rejected claims are cancelled, it is instructive to show that new independent claims 30, 32 and 34 are not anticipated and are not obvious in view of Heuser.

The prior art of Heuser teaches a label and a laminate on opposite sides of a split backing member, where the split line is oriented along the minor (short) dimension (element 16 in Fig. 1). The split line acts "as an aid in removal of both the label sheet 13 and the protective cover 15..." (column 3 lines 1-3) Heuser also teaches printing or typing through the central portion of the label, oriented along the major (long) dimension of the label (Fig. 1).

A feature of the present invention is a split down the major (long) dimension, with the explicit purpose of folding the label onto both sides of a folder or other stock member like a tabbed divider. If one skilled in the art were to apply the teachings of Heuser, where the label is folded over the edge of a folder along its short dimension, one would lose some of the printing, with some of the printed characters on one side of

the folder and some characters on the other side, since tabbed folders have a depth of 2-3 cm and that is the usual minor dimension of a label. Though it would require “inventive activity” to reorient the printing or the split line to accommodate folding over an edge of the folder, it is not taught by Heuser in any of the text or drawings and is therefore not obvious. As a result, the embodiment suggested by Heuser is to not fold the label over the edge of a folder, which does not satisfy the object of the present invention.

Furthermore, if one were stretch the teachings of Heuser and fold the label along the short dimension over the edge of a folder, one would find that a substantial portion of the printing would be illegible (i.e., occluded). Because folders typically have tabs that are roughly 2-3 cm deep, a label folded along its short dimension would extend beyond the extent of the tab, and would therefore be illegible.

In short, the present invention is not taught by Heuser, and even if one were to stretch the disclosure of Heuser (which is impermissible), one would arrive at a non-functional result. A non-functional result can hardly render the invention obvious. Specifically, several elements of the independent claims are not obvious in view of Heuser: orienting a split line along the long dimension (claim 30), applying the label to both sides of the folder (claims 30 and 34), and a shaped edge that conforms to the edge of a folder (claims 32 and 34). Alone or in combination, none of these elements are suggested by Heuser, and therefore, independent claims 30, 32 and 34 are not obvious in view of Heuser. In addition, because none of these elements is present in Heuser, claims 30, 32 and 34 are also not anticipated by Heuser.

Therefore, independent claims 30, 32 and 34 should be placed in condition for allowance. Furthermore, dependent claims 31, 33 and 35 contain all the limitations of the above-mentioned independent claims, and should also be placed in condition for allowance.

### **CONCLUSION**

In view of the amendments and reasons provided above, it is believed that all pending claims are in condition for allowance. The amendments clarify the patentable invention without adding new subject matter. Applicant respectfully requests favorable reconsideration and early allowance of all pending claims.

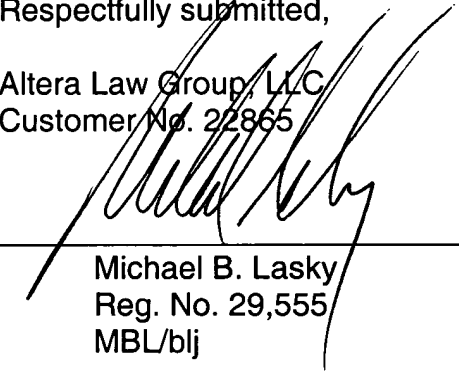
If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicant's attorney of record, Michael B. Lasky at (952) 253-4106.

Respectfully submitted,

Altera Law Group, LLC  
Customer No. 22865

Date: June 23, 2004

By:



---

Michael B. Lasky  
Reg. No. 29,555  
MBL/blj